

14 August 2024

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OIA 29524

Tēnā koe

We refer to your email of 11 July 2024 in which you request the following under the Official Information Act 1982 (OIA):

- a) *a complete copy of the 25 January 2024 briefing to the Minister of Foreign Affairs titled 'New Zealand's approach to South Africa v Israel – International Court of Justice (ICJ) Genocide Convention case but with redactions to protect the privacy of Ministry of Foreign Affairs and Trade staff under section 9(2)(a) of the Official Information Act*
- b) *copies of any briefing, memoranda or other communications to the Minister of Foreign Affairs reporting on the interim decision of the International Court of Justice released on 26 January 2024*
- c) *copies of any briefing, memoranda or other communications to the Minister of Foreign Affairs on the further orders by the International Court of Justice dated 28 March 2024, and 24 May 2024 with regard to Israel's actions in Gaza*

On 8 August 2024, the timeframes for responding to your request were extended by an additional 20 working days because responding to your request necessitated the review of a large quantity of information, and due to the consultations necessary to make a decision on your request. (section 15A of the OIA refers).

The information relevant to parts a) and b) of your request is publicly available on the Ministry of Foreign Affairs and Trade (the Ministry's) website. We refer you to the following OIA responses:

- OIA 29038: New Zealand's response to *South Africa v Israel – ICJ case* www.mfat.govt.nz/en/media-and-resources/oia-29038-new-zealands-response-to-south-africa-v-israel-icj-case
- OIA 29012: *South Africa v Israel – ICJ case* www.mfat.govt.nz/en/media-and-resources/oia-29012-south-africa-v-israel-icj-case

There are 12 documents relevant to part c) of your request: 11 Situation Reports ("SitReps") on the Israel-Hamas conflict, and 1 email. The information within scope in these documents is enclosed in **Annex 1**. All remaining information in these documents is out of scope of your request. We have withheld some in scope information under the following sections of the OIA:

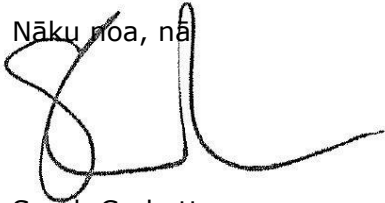
- 6(a): to avoid prejudicing the international relations of the New Zealand Government; and,
- 9(2)(g)(i): to protect the free and frank expression of opinions by officials.

Where the information has been withheld under section 9 of the OIA, we have identified no public interest in releasing the information that would override the reasons for withholding it.

Please note that it is our policy to proactively release our responses to official information requests where possible. Therefore, our response to your request (with your personal information removed) may be published on the Ministry website: www.mfat.govt.nz/en/about-us/contact-us/official-information-act-responses/

If you have any questions about this decision, you can contact us by email at: DM-ESD@mfat.govt.nz. You have the right to seek an investigation and review by the Ombudsman of this decision by contacting www.ombudsman.parliament.nz or freephone 0800 802 602.

Nāku noa, nā

A handwritten signature in black ink, appearing to be 'Sarah Corbett', written over the text 'Nāku noa, nā'.

Sarah Corbett
for Secretary of Foreign Affairs and Trade

Annex 1

Copies of briefings, memoranda or other communications to the Office of the Minister of Foreign Affairs on the further orders by the International Court of Justice, dated 28 March 2024, and 24 May 2024, with regard to Israel's actions in Gaza

Source (Note: the same information can be repeated in multiple sources)	Section of Document	Information
SitRep 83, 5 April 2024	Key media messages	[Withheld under section 9(2)(g)(i)]
SitRep 83, 5 April 2024	Latest developments	<p>On 28 March, the International Court of Justice (ICJ) delivered an order on South Africa's second request for provisional measures. The Court reaffirmed the provisional measures order of 26 January and ordered Israel to:</p> <ul style="list-style-type: none"> ○ Take "all necessary and effective measures to ensure, without delay, in full cooperation with the United Nations, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance...including by increasing the capacity and number of land crossing points and maintaining them open for as long as necessary." This order was made unanimously by all 16 judges. ○ Ensure with immediate effect that its military does not commit acts which constitute a violation of the rights of Palestinians in Gaza as a protected group under the Genocide Convention, "including by preventing, through any action, the delivery of urgently needed humanitarian assistance." ○ Submit a report the Court on all measures taken to give effect to the Order within one month [by 28 April].
SitRep 83, 5 April 2024	Humanitarian	<p>In delivering its order on provisional measures on 28 March, the ICJ noted that since its last decision on 16 February "the catastrophic living conditions of the Palestinians in the Gaza Strip have deteriorated further, in particular in view of the prolonged and widespread deprivation of food and other basic necessities to which the Palestinians in the Gaza Strip have been subjected." The Court also recognised that "Palestinians in Gaza are no longer facing only a risk of famine...but that famine is setting in."</p>

<p>SitRep 84, 12 April 2024</p> <p>SitRep 85, 19 April 2024</p> <p>SitRep 86, 26 April 2024</p> <p>SitRep 87, 3 May 2024</p> <p>SitRep 88, 10 May 2024</p> <p>SitRep 89, 17 May 2024</p> <p>SitRep 90, 24 May 2024</p> <p>SitRep 91, 31 May 2024</p>	<p>Further talking points: humanitarian situation</p>	<p>New Zealand supports initiatives to improve the flow of humanitarian aid into Gaza. [Withheld under section 9(2)(g)(i)].</p>
<p>SitRep 83, 5 April 2024</p> <p>SitRep 84, 12 April 2024</p>	<p>Further talking points: UN Security Council Resolution 2728</p>	<p>[Withheld under section 9(2)(g)(i)]</p>
<p>SitRep 84, 12 April 2024</p> <p>SitRep 85, 19 April 2024</p> <p>SitRep 86, 26 April 2024</p> <p>SitRep 87, 3 May 2024</p> <p>SitRep 88, 10 May 2024</p>	<p>Key media messages</p>	<p>[Withheld under section 9(2)(g)(i)]</p>
<p>SitRep 84, 12 April 2024</p> <p>SitRep 85, 19 April 2024</p>	<p>Further talking points: South Africa's ICJ case against Israel</p>	<p>[Withheld under section 9(2)(g)(i)]</p>

<p>SitRep 86, 26 April 2024</p> <p>SitRep 87, 3 May 2024</p> <p>SitRep 88, 10 May 2024</p> <p>SitRep 89, 17 May 2024</p> <p>SitRep 90, 24 May 2024</p>		
<p>SitRep 89, 17 May 2024</p> <p>SitRep 90, 24 May 2024</p>	Key media messages	[Withheld under section 9(2)(g)(i)]
<p>SitRep 89, 17 May 2024</p>	Legal	<p>On 10 May South Africa submitted a further request for additional provisional measures and modification of the Court’s previous provisional measures order responding to Israel’s assault on Rafah. This is South Africa’s fourth request for provisional measures and hearings are scheduled for 16 – 17 May.</p> <p>South Africa has requested the Court (1) order Israel to withdraw and cease its military offensive in Rafah; (2) ensure and facilitate access to UN and other officials involved in the provision of humanitarian aid; and (3) submit an open report to the Court. Nicaragua, Colombia, and Libya have applied to the Court to intervene in <i>South Africa v Israel</i>. Egypt and Ireland have publicly indicated their intention to intervene but have not formally submitted their request to the Court.</p> <p>[Withheld under section 6(a)].</p>
<p>SitRep 90, 24 May 2024</p>	Legal	<p>Public hearings took place at the International Court of Justice (ICJ) from 16-17 May following South Africa’s request for additional provisional measures and modification of the Court’s previous provisional measures order responding to Israel’s assault on Rafah. South Africa has requested the Court (1) order Israel to withdraw and cease its military offensive in Rafah; (2) ensure and facilitate access to UN and other officials involved in the provision of humanitarian aid; and (3) submit an open report to the Court. The Court will deliver its decision at 3pm Friday 24 May local time (3am NZT, Saturday 25 May).</p>
<p>SitRep 91, 31 May 2024</p>	Key media messages	[Withheld under section 9(2)(g)(i)]

<p>SitRep 92, 6 June 2024</p> <p>SitRep 93, 14 June 2024</p>		
<p>SitRep 91, 31 May 2024</p>	Legal	<p>Mexico has made a declaration of intervention in South Africa v Israel at the International Court of Justice. Mexico is the fourth country to do this since South Africa instituted proceedings in December 2023. Other interventions have been made by Nicaragua, Colombia and Libya.</p>
<p>SitRep 91, 31 May 2024</p>	Multilateral	<p>Algeria has circulated a draft UN Security Council resolution focused on Rafah, seeking to give effect to the 24 May International Court of Justice order that Israel <u>halt its military offensive immediately</u>. The short draft text includes strong language, including that the Council “decides that Israel, the occupying Power, shall immediately halt its military offensive, and any other action in Rafah”. It also demands an immediate ceasefire respected by all parties and the immediate and unconditional release of all hostages. It is not yet confirmed when the resolution may be put to the Council for adoption, [Withheld under section 6(a)].</p>
<p>SitRep 91, 31 May 2024</p> <p>SitRep 92, 6 June 2024</p> <p>SitRep 93, 14 June 2024</p>	Further talking points: South Africa’s ICJ case against Israel	[Withheld under section 9(2)(g)(i)]
<p>SitRep 91, 31 May 2024</p> <p>SitRep 92, 6 June 2024</p> <p>SitRep 93, 14 June 2024</p>	Legal	<p>On Friday 24 May the International Court of Justice (ICJ), by 13 judges to 2, ordered Israel to immediately halt its military offensive in Rafah. The Court’s decision is significant as its orders are binding [withheld under section 6(a)]. Alongside halting its military offensive in Rafah, the Court also ordered that Israel to:</p> <ul style="list-style-type: none"> ○ implement the provisional measures orders of 26 January and 28 March; ○ maintain open the Rafah crossing for unhindered provision at scale of urgently needed basic services and humanitarian assistance; ○ ensure access to the Gaza Strip of any United Nations investigative body mandated to investigate allegations of genocide; ○ submit a report to the Court within one month of this order.

<p>SitRep 91, 31 May 2024</p> <p>SitRep 92, 6 June 2024</p>	<p>Legal</p>	<p>The Court characterised the humanitarian situation in Rafah as “disastrous” and reiterated its calls for the immediate release of hostages. Canada’s Prime Minister Trudeau stated “the ICJ’s proposals are binding, and we expect everyone to follow them as a matter of international law.”</p> <p>A range of countries and international bodies including Australia (DFAT), Norway, the EU and Belgium make statements joining the call for Israel to comply with the orders and halt its operation in Rafah; reiterating their support for the critical role of the court in upholding international law and the rules based order.</p>
<p>Email entitled ‘Formal Message: Weekly Issues Update – Week Ending 31 May 2024’</p>	<p>Middle East and Africa</p>	<p>International Court of Justice orders Israel to halt its military offensive in Rafah</p> <p>On Friday 24 May the International Court of Justice (ICJ), by 13 judges to 2, ordered Israel to immediately halt its military offensive in Rafah. The Court also ordered Israel to maintain open the Rafah crossing. The Court’s decision is significant as its orders are binding. [Withheld under section 6(a)].</p> <p>This decision follows the announcement last week by the Prosecutor of International Criminal Court (ICC) that he is seeking arrest warrants for Israel’s Prime Minister Benjamin Netanyahu and Defence Minister Yoav Gallant for war crimes and crimes against humanity.</p>